



**REGULAR BOARD MEETING
University Park Plaza
Conference Room A – 4TH Floor
2829 University Avenue S. E.
Minneapolis, Minnesota 55414**

Minutes

November 19, 2010

Members Present: Christine Black-Hughes, LICSW, Vice Chair
David Hallman, LSW
Jacqueline Johnson, LICSW
Janna Kovach, LSW
Kenneth Middlebrooks, Public Member, Chair
Carol Payne, LSW
Nicole Roiger, LSW
Tamerlee Ruebke, LSW
Beverly Ryan, LISW
David Sandry, Public Member, Secretary-Treasurer
Angie Stratig, LICSW
Antonia Wilcoxon, Public Member

Members Absent: Rosemary Kassekert, Public Member
Mary Casey Ladd, LICSW
Ruth Richardson, Public Member

Staff Present: Louis Hoffman, Director of Compliance
Michelle Kramer-Prevost, LGSW, Staff Social Worker
Connie Oberle, Office Manager
Kate Zacher-Pate, LSW, Executive Director

Staff Absent: Sheryl McNair, LICSW, Assistant Director
Brenda Mammenga, Recording Secretary

1. PROPOSED AGENDA [Attached]

Chair Middlebrooks called the meeting to order at 9:02 a.m.; a quorum was present. The Board unanimously approved the agenda.

2. MINUTES FOR SEPTEMBER 17, 2010 BOARD MEETING [Attached]

The Board unanimously approved the September 17, 2010 minutes.

3. EXECUTIVE DIRECTOR'S REPORT: Zacher-Pate [Attached]

Zacher-Pate referred to the information included in the Executive Director's (ED's) Report in the Board packet and commented on the following:

- Detailed budget information will be covered in the Finance Committee report.
- There will be an update on the Minnesota House Licensing Division hearing on the "Health Professionals Bill".
- Planning and development of IT initiatives continue for necessary changes to the Board's General Licensing System (GLS) in order to implement the necessary 2011 increased licensing requirement changes. The Board is fortunate to have IT staff member, Grace Rhee, who is developing new online services and has completed additional licensing data queries. Future projects will include the necessary "adaptors" required to connect to the OET (Office of Enterprise Technology) e-Licensing system and a possible shared HLB "back-end" data base system.
- The Board's 2008-2010 Biennial Report has been completed and submitted to the HLBs (Health Licensing Boards) Administrative Services Unit (ASU). The report will be published soon.
- In late October the "pilot survey phase" of the Minnesota Department of Health's (MDH) workforce shortage survey was trialed by Board members who are licensees and Advisory Committee members. Data will be collected and the survey will be implemented by offering the survey at the time of every online and paper license renewal. The survey is not mandatory, but licensees are encouraged to complete the survey which will be available in 2011. The MDH will compile the data. Social work is the first mental health profession to be surveyed.
- On November 4, 2010, the Board received a press release from the State of Minnesota Chief Information Officer, Gopal Khanna, and Commissioner Tom Hanson, Minnesota Management and Budget (MM&B), announcing the first step in reducing more than 36 state data centers by consolidating them into two or four sites in the next five years. The consolidation will include the HLBs; however, we do not know when this will occur. The co-location of data centers is said to foster greater efficiency, reduce risk at the current state facilities that do not meet necessary industry standards, reduce costs, and offer greater agility and performance. It is likely that IT staff will also be consolidated into the Office of Enterprise Technology (OET), which will likely result in lay-offs.

(Roiger arrived at the meeting at 9:14 a.m.)

- Tony Bibus, LISW, a former Board member for a number of years and a Professor at Augsburg College, has written and published a textbook with a colleague on social work regulation. This resource contains valuable information and may be the first textbook written on this topic.
- Recently, a drafting error in the Board's Practice Act, MS 148E, was discovered. When the statute was recodified in 2009, the temporary license provision for programs in candidacy status was not carried forward into 148E. The Attorney General's Office (AG) said there is no change in the provision for anyone granted a temporary candidacy status license if it were repealed prior to correcting the error. Therefore, students who graduated from the social work programs at Minnesota State University-Mankato and St. Cloud State University and were granted temporary licenses under the candidacy provision will not be affected. The provision will expire on August 1, 2011. A request will be made in writing to the Revisor by Board Chair Middlebrooks, AG Representative Nathan Hart, and Zacher-Pate asking that this provision be included in the Revisor's Bill as a correction during the 2011 Legislative Session. This provision was intended to be permanent.
- In March Board action was taken delegating authority to the ED to act on variance requests under MS148D.035 and to report on whether there were any approvals or denials. There has been one variance approved and two denied; the requests are very infrequent.

- The legislative committees and chairs have been named, which is of particular importance to the Board because legislation will be introduced during this session. There was a new configuration of the committees with a 33% reduction in the number of committees to streamline the process and make it easier to bring bills forward and testify before committees. Two House committees will be considering the HLBs budget and policy initiatives. One of the committees is the House Health and Human Services Finance Committee chaired by Representative Jim Abeler who has been supportive of the HLBs over time. Representative Abeler previously served on the licensing subcommittee. The other committee, previously called the Health and Human Services Policy Committee, is now the House Health and Human Services Reform Committee and is being chaired by Representative Steve Gottwalt. Senator David Hann is chairing the Senate Health and Human Services Committee. Committee members have not yet been named. The session begins January 4 and committee members will be named in mid-December. There are a number of HLBs who will have legislative proposals, including biennial budget proposals.
- Recently two Executive Directors met with Representative Abeler, and issues discussed included whether all HLBs should use the FBI fingerprint identification for background checks; including all HLBs in the criminal sexual conduct legislation enacted in 2010 for the Chiropractic Board; dedicated special revenue funding which would be a change in the funding account and system for the HLBs; the OET surcharge and the cost of migrating to the new e-Licensing system, not provided for in the legislation; the mood of legislators; access to legislators during the next session; and if a House Licensing Subcommittee will be established.
- It was reported that Representative Abeler is supportive of the HLBs remaining independent entities, but wishes consistency in how the HLBs conduct business, especially in the areas of the complaint resolution process, some of the budgeting issues, and the criminal sexual conduct legislation. It was noted that only one of the HLBs did not support the criminal sexual conduct legislation should be in place for all HLBs. The Council of Health Boards is completing the report to the Legislature on the potential impact to the HLBs should the Criminal Sexual Conduct legislation be enacted for all HLBs. They will meet to discuss the proposal on December 7.
- Another important issue Representative Abeler asked about was his bill from last session which asked the HLBs to modify the complaint resolution process. The EDs are working on proposed modifications and they will be reviewed by the Council of Health Boards on December 7. Concerns raised by Representative Abeler include ensuring consistent practices among HLBs; limiting the role and responsibility of the Executive Director (ED); limiting the amount of time spent resolving complaints; and promoting joint investigations to save on resources. The EDs have been developing a response, and Zacher-Pate is appreciative of Hoffman's participation in the group looking at possible revisions to Chapter 214.
- Representative Abeler understands the HLBs' concerns regarding the OET e-licensing surcharge, transferring to the Enterprise system, and the cost of the adaptors. The EDs are intending to move forward with funding structure changes, which were proposed last session but did not pass.

(Note: Wilcoxon apologized for arriving late at the meeting [9:07 a.m.] and had a revision to the September 17, 2010 Board minutes under the Licensing Study Committee's report. The minutes state that "Wilcoxon testified at a Legislative hearing".... However, it should read that "Wilcoxon attended a legislative hearing"....) [Note: Brenda Mammenga made the revision to the minutes.]

4. COMPLIANCE COMMITTEE: Hallman, Johnson, Kovach, Ladd, Middlebrooks, Payne, Ryan, Stratig [Attached]

Hoffman reported the following:

- There are no cases for Board review today. Compliance statistics include cases prior to November 3, 2010 and those prior to September 9, 2010 for comparison purposes. Within these

two time periods there are now 46 cases open compared to 36 previously. The volume of cases has risen and part of the reason is that there have been a number of referrals from the Licensing Unit. In terms of the age of the cases, the pattern of statistics is consistent with those that have existed throughout the time they have been collected. Basically, one-third of the cases are 3 months old or less, two-thirds of the cases are six months old or less, and a majority of the cases that are six months or older are either cases being investigated by the AG or are now before the panel and have been investigated by the AG.

- The entire Compliance Committee consisting of Compliance Panel A and Compliance Panel B met yesterday. The Committee rarely meets, but it met to discuss certain aspects of the investigative process regarding how it would like certain cases to be handled and at what level. The meeting was very productive.

5. LICENSING UNIT REPORT: McNair, Kramer-Prevost [Distributed]

In McNair's absence, Kramer-Prevost reported the following:

- The MSW program at Minnesota State University-Mankato has gained accreditation through the Council on Social Work Education's (CSWE's) Commission on Accreditation (COA). The social work students who were granted temporary licenses under the candidacy provision may now apply for permanent licensure.
- McNair and Kramer-Prevost have completed student presentations for 10 of the 14 social work programs in the state that requested this service from staff. Two presentations are offered, one for BSW students and one for MSW students. Black-Hughes thanked and commended staff for its professionalism in presenting the material and for answering students' questions.
- The format for the online renewal and application statistics has changed and now provides more detail. The Renewal Process Statistics-Summary for the period of 1/1/2010-9/30/2010 indicates the number of online and paper renewal applications submitted and completed, with the added feature of license types, including reactivations. The Board requested statistics on the average number of days for completion of the renewal process. The summary shows that it takes 8 days to complete a renewal application that has all of the required attachments, including supervision forms or other additional documentation. The Board also requested statistics on the average number of days until first contact to the applicant, which is 14 days. At that time the applicant is asked to submit documentation that is missing or deficient, such as Supervision Verification forms. Kramer-Prevost said that staff is completing its work in a timely manner.
- There were 3782 renewal applications submitted in the time period noted above. Approximately 26% were submitted on paper and 74% were completed online.

Zacher-Pate commented that staff completes 400-450 renewals per month, and she commended staff for their good work. Also, in regard to the first contact, as noted above, the Supervision Verification Form is submitted to the Board by the licensee's supervisor, and the licensee has no control over the time frame in which this may occur. There may be other renewal requirements that must be documented and were not submitted with the application. Therefore, staff allows 7-14 days for everything to arrive in the office before the licensee is contacted for missing documentation.

- Kramer-Prevost referred to the "Licensing Process Statistics-Summary" for the time period of 10/1/2008-9/20/2010", which refers to initial applications for licensure. The table includes two years of data to ensure accuracy, as applicants have one year to complete the licensure process, as allowed by statute. During this time period there were 3000 applications received with 2151 submitted online (72%) and 849 (28%) submitted in paper form.
- The number of applications completed during this time period was 2085. 1830 (88%) applicants were licensed through examination, 118 (6%) through endorsement from another state, and 137 (7%) through other means.

- Of the 2085 applications that were completed, 541 (26%) were completed in less than 3 months, 739 (35%) were completed within 3-6 months, 391 (19%) were completed within 6-9 months, and 244 (12%) were completed within 9-12 months. 170 (8%) of the applications were completed or closed out after 12 months. The length of the process is determined in large part by the applicant, who may choose to move through the process quickly or may be approved to examine but decide to take the examination months later.
- The average number of days for first contact with the applicant is 22 days, as staff may be waiting for a criminal background check, academic transcript, licensure verification, or final supervision forms.

Zacher-Pate asked the Board how often it would like these statistics made available and it was suggested that once a year would be sufficient. Black-Hughes asked if the statistics could also be broken down into license category, and Zacher-Pate said staff could run a query to retrieve this data.

Zacher-Pate commented on the new Association of Social Work Board's (ASWBs) licensing examinations. ASWB has changed its examination vendor from American College Testing (ACT), which it used for 13 years, to Pearson VUE. ASWB recently also completed the North American Practice Analysis and has condensed sections of the examination content. For example, the content of the Advanced Generalist examination is being significantly revised towards a macro base with less "clinical" content. The Advanced Generalist exam is only requested approximately 200 times per year, and thus, the "Item Bank" is lacking. Therefore, the new Advanced Generalist exam content will not be available until January 2012.

Middlebrooks commented that beginning January 3, 2011 through June 30, 2011, the Advanced Generalist exam will have 150 scored items and an additional 110 non-scored pre-test items which will be used to gather new exam content for the new Advanced Generalist exam that will be available beginning January 2012. During this six month period, the examination will be provided without charge over a six hour period. Middlebrooks also commented that Pearson VUE started its business in 1962, its global headquarters is located in Bloomington, and it is the world's largest educational assessment and testing company located in 165 countries.

Zacher-Pate said there will be a short video presented today on Pearson VUE which owns its test centers. There will be five centers available to candidates in Minnesota including Hermantown, Rochester, and three in the Metro area. Candidates may also test in another state. For security purposes, Pearson VUE takes a photograph of each candidate and uses a palm vein scan to confirm candidate identification at the test centers. Zacher-Pate also said that Board staff will be trained on the new testing process and will explain the new process during student presentations to enable a smooth transition.

6. PRESENTATION OF "UPDATE" BOSW NEWSLETTER: Jessica Schultz

Zacher-Pate said the demonstration of the Board's new online newsletter is a very exciting and tangible successes and services that have been accomplished in years. Recognition was given to Jessica Schultz, Office Assistant, design expert and developer of the newsletter in a professional, eye-appealing manner. Grace Rhee, IT Developer, was also recognized for building an online e-mail subscription distribution service for the newsletter. The project demonstrated great team work, with Hoffman and McNair acting as chief editors.

Schultz demonstrated the location and details of subscribing to and accessing the newsletter on the Board's website.

Zacher-Pate commented on the timeliness of the newsletter in regard to the 2011 Legislative Session, as the newsletter is intended to be the Board's primary and regular communication tool. Also,

there is 24/7 access to the newsletter, and expenditures are being reduced by having accessibility online.

7. DEMONSTRATION OF "LIVE MEETING": Bryan Smalley, ASU IT

Bryan Smalley, ASU IT Staff, demonstrated the features of the Microsoft Live Meeting application and system which will be implemented in the near future and will be available to all of the HLBs. Smalley said he was acting as the "live meeting host" from his office, and he explained that he could send notification of the meeting by e-mail to the participants. Also, audio and video will be available during a live meeting, and the host may share any information from their desktop, including a Power Point demonstration or training materials. Live meeting allows for question and answer capability, which may be answered by the host during or after the meeting, and the capability to ask a poll question which may be presented to other invitees. Smalley said if Board members would like to utilize the Live Meeting Client, the free Microsoft program can be downloaded on their Minnesota issued laptop computers.

Zacher-Pate said the Board would need to comply with open public meeting law requirements and asked Smalley if the live meeting program could be used for the highly confidential data of the Compliance Panel meetings, and access to board meetings, or for student presentations. Smalley said that Microsoft offers the means to secure the program, and it recommends the program be installed in an entirely separate network segment in the event that the server is compromised.

Zacher-Pate thanked Smalley for the demonstration and Schultz for managing the IT system today.

8. 2010 BOARD MEETING DATES [Attached]

Middlebrooks referred to the "BOSW Meeting Schedule 2011 & 2012" and asked for the Board's approval of the schedule.

A motion was made by Hallman, and seconded by Johnson, to approve the "BOSW Meeting Schedule 2011 & 2012". The Board unanimously approved the motion.

9. COMMITTEE & LIAISON REPORTS

A. Advisory Committee: Wilcoxon, Kovach [Attached]

Wilcoxon did not attend the October 8, 2010 Advisory Committee meeting and asked Kovach if there was additional information from the meeting that was not reported in the meeting minutes. Kovach deferred, and Barbara Kaufman, LISW Emeritus, Advisory Committee Chair, reported the following:

- Many social workers have informed their associations that the statutory increase in supervision hours is going to be a hardship, especially those practicing in Greater Minnesota. Therefore, the Advisory Committee is bringing a recommendation to the Board to be considered for inclusion in the Board's 2011 Legislative Proposal, originally proposed by the Coalition of Licensed Social Workers, which allows social work licensees to receive 25% of their supervision from Board qualified mental health supervisors from disciplines other than social work. The other 75% of supervision would have to come from qualified social work supervisors. The licensees would be required to inform the Board about alternative supervisors via their Supervision Plans, but they would not need to receive permission from the Board in order to utilize this type of supervision for up to 25% of the time.

- Pam Luinenburg, LGSW, Coordinator for the Minnesota Coalition of Licensed Social Workers (Coalition), brought this issue before the Advisory Committee and Kaufman asked if she would like to make any comments to the Board.

Luinenburg made the following comments: [Handouts distributed]

- Luinenburg will develop a document for the Board that will include additional details about the supervision issue, and in January the Minnesota Conference on Social Work Education (MCSWE) will also be looking at this issue more carefully.
- Luinenburg reported that she had been contacted by 41 individual social workers (many of them from Greater Minnesota and LSWs) for assistance with supervision requirements. Since many of the social workers are new licensees, they are having difficulty finding supervision if it is not provided by their employer, and the cost is prohibitive as they have low wages and educational debt. Also, many licensees are told by their employers that they do not need to be licensed and they cannot provide supervision.
- The proposal was developed by the Coalition of Licensed Social Workers. The reason for this proposal is that it is a balance between maintaining the integrity of social work supervision and responding to licensees' expression of their needs in this area. The question was raised whether alternate supervision should be allowed from supervisors of other disciplines and what percentage of supervision would be appropriate from other disciplines, and the consensus has been a limitation of 25%. This recognizes the need for supervisors who are licensed as social workers.
- The reason for the proposal is that it would ensure that all licensees could utilize qualified alternate supervisors without applying for and receiving permission from the Board. Some agencies felt it was important to have on-site supervision because of privacy issues and the supervisors would understand the agency culture. Also, the pool of supervisors would be increased if alternate supervisors were approved by the Board.
- Consensus to date includes alternate supervisors who are mental health professionals included in the Comprehensive Mental Health Act (CMHA): Psychiatrists, Psychologists, Clinical Nurse Specialists, Licensed Clinical Professional Counselors (LCPC), and Licensed Marriage and Family Therapists (LMFT), and are "board approved supervisors", with their respective boards to assure competence and oversight.
- In April 2009 the Coalition formed a Supervision Task Force which included 35 individuals, most of whom were licensees, but also included agency representatives from Greater Minnesota and individuals from minority groups. On-site supervision was highlighted to be important, and some agencies may only have one mental health professional on staff who may not be a clinical social worker, which would not apply to the licensing supervision requirements.
- Several representatives on the Supervision Task Force said the increased supervision requirement is a barrier to hiring Licensed Graduate Social Workers (LGSWs), and many employers have hiring restrictions in place that will not allow hiring LGSWs because of the increased supervision requirements. Ron Brand, Executive Director of approximately 30 community mental health programs throughout the state, said the new requirements are a real problem for his group, and wrote comments to the Coalition about his hope that boards would allow supervision under the direction of any licensed mental health professional.
- Other mental health professions including Psychology, LCPCs, and LMFTs allow 50% or more of their supervision to be provided by mental health professionals from other disciplines.
- Some experienced supervisors believe that having a supervisor from a different profession would enhance a licensee's development of their social work practice in a multidisciplinary manner as they work with Psychologists and LMFTs. Also, clinical licensees are not trained in psychological testing and a Psychologist supervisor would enhance their practice in this area.

- This proposal is being brought to the Board at this time as the Coalition began receiving information on this issue in January 2010, but due to other projects, the work on this proposal began in June 2010 and was brought to the Advisory Committee in September. The committee would like this proposal to be included in the Board's proposal to the Legislature during this session.
- This proposal could enhance the 2011 public agency licensing exemption bill as it may assist agencies in meeting the supervision requirements. By having both proposals go into effect on August 1, 2011, the transition would be easier for licensees, and would eliminate the need for a separate bill in the future, and it may prevent agencies from not hiring licensees.
- The Coalition believes the supervision proposal will help the licensing law work better as few licensees knew about the alternate supervisor provision in statute. However, more licensees may apply for a variance in the future due to the increased supervision requirement, greater ease in obtaining a variance, and greater knowledge of the variance process via the Board's website and the Coalition's supervision web page.
- The Coalition believes that allowing licensees to utilize board qualified supervisors from other disciplines would not harm the public or diminish the mission of the Board. The goal in bringing the proposal is to enable licensees to find qualified supervisors who can provide cost-effective supervision and to support agencies in hiring licensees from all licensing levels.
- An important issue that needs to be assessed is the potential impact on Board staff time and resources in implementing the proposal. Luinenburg will talk further with Zacher-Pate about this concern.
- Luinenburg thanked the Board for listening to the proposal and asked if there were any questions.

There was discussion about the following:

- There was a question about the amount of time a licensee may utilize supervision from a non-licensed social worker. Zacher-Pate responded that if a variance is approved, there is no limitation of hours based in statute. Also, variances must be renewed either at the beginning of a renewal period or when a new Supervision Plan is submitted to the Board. A licensee seeking a variance must demonstrate that they have thoroughly searched for a licensed social worker supervisor, and generally, the variances are granted.
- Luinenburg responded to a question about whether there is any known opposition to this alternate supervisor proposal, and she stated that the Coalition does not know of any opposition among the associations, however, a few associations, including MCSWE, have not taken a formal position yet.
- Luinenburg said the proposal would open up the 25% provision to any licensee without submitting a variance application. However, if the licensee wanted to have more alternate supervision, they would submit the variance application like they do now. Therefore, she believes there is more flexibility with the new proposal.
- There was a question about how the new provision would affect Board resources and staff. Zacher-Pate said she provided Luinenburg information regarding the statutory provisions regarding alternate supervision in place currently, and the changes that will occur in August 1, 2011, prior to the September Advisory Committee meeting. Staff does have concerns regarding the implementation of this proposal, in the areas of education and information for licensees, processing time, customer service, confusion for licensees, modifications that would be necessary to applications, the licensing data base, etc.
- Additionally, the 25% provision will stretch staff resources as there will be additional Supervision Plan forms and Supervision Verification forms to process. The licensee and supervisor will need to track the 25% very diligently and, if the supervision goes beyond the 25% limit, the supervision will be denied.

- Zacher-Pate also prepared a table, "Alternate Supervisor Requirements Comparison, MS 148D.120 & 148E.120", to assist in considering the need for the new provision. Zacher-Pate said licensees have always had the option to request an alternate non-licensed supervisor if a licensed social work supervisor was not available to provide supervision.
- The distinct difference between the Board's alternate supervisor provision and the proposal is a licensee may currently obtain supervision by applying for a variance via Board statute for either a portion or all of their supervision. The similarity is that a mental health professional may be utilized as the alternate supervisor in both current statute and the Advisory Committee proposal. When the increased licensing standards were being crafted, recognizing the increased burden on licensees and agencies, the Board deliberately repealed most of the restrictions on the alternate supervisor variance statutory provision.

The "Alternate Supervisor Requirements Comparison" chart, which was reviewed, shows the similarities and differences between the current statute and the proposed statute. The licensee must: 1) "Conduct a thorough search for required supervision" in both statutes. 2) There must be "Specific grounds to NOT determine that supervision is unobtainable", which was repealed in the proposed statute. The denials in this area that were repealed include that a licensee may not ask for a variance based on financial hardship, based on the fact that an organization will not allow the licensee to find offsite supervision, or based on whether the licensee has a specialized practice. 3) "Not necessary to conduct a thorough search for required supervision if there are five or fewer supervisors meeting the applicable licensure requirements in the county where the licensee practices social work", is a new provision included in the new statutory proposal and recognizes the limitation of finding supervisors. 4) "Alternate Supervisor Qualifications" provision is similar in both statutes, with the addition in 148E.120 that an alternate supervisor may be a social worker engaged in authorized practice in Iowa, Manitoba, North Dakota, Ontario, South Dakota, or Wisconsin with equivalent qualifications. The information in the table was made available to the Advisory Committee. Also, the Board has always supported alternate supervisors.

- There was a comment about the Board's procedure of having the Legislation and Rules Committee investigate and make a recommendation about statutory revisions.

A motion was made by Hallman, and seconded by Johnson, to send the proposal to "allow social work licensees to receive 25% of their supervision from alternate supervisors", to the Legislation and Rules Committee to study the issue and report back to the Board as they feel necessary. The motion was approved by the Board with one exception.

- There was discussion about whether a supervisor is qualified to supervise in the 25% provision. Pam Berkwitz, LICSW, Minnesota Coalition of Licensed Social Workers, responded that Psychologists must attest to their Board that they have competency in providing supervision, and a LMFT must attain a certificate in supervisory continuing education in order to become a Board certified supervisor.
- Zacher-Pate said there a lot of unknowns at this time, but the alternate supervisor proposal, effective August 1, 2011, is more generous in meeting the needs and demands of licensees. Also, it is unknown whether the proposed supervisors should be broader than mental health professionals, whether it should be more responsive to Bachelor's level practice, and whether the modification of the exemptions proposal will pass.

10. LUNCH [11:38 a.m. – 12:10 p.m.]

11. **HEALTH PROFESSIONALS SERVICES PROGRAM (HPSP):** Monica Feider

Middlebrooks introduced Monica Feider, and she thanked the Board for the opportunity to speak to the Board today and made the following comments:

- HPSP was established 16 years ago primarily through the Board of Medical Practice, the Board of Nursing, and their related professional associations to address their concern that health professionals were not seeking treatment for their illnesses. For example, some of the practice acts require practitioners who have gone through substance abuse treatment to report their illnesses to their licensing board, but the practitioners were not reporting back to their boards. The boards also feared that practitioners were not seeking treatment for fear that they would be reported to their licensing boards or they would have to self-report to their boards.
- HPSP is an alternative to reporting one's illness to the licensing board. Each board has a practice act with individual reporting requirements, and some boards have mandatory reporting requirements. Board statutes require that board professionals report their illnesses to HPSP or to their licensing board, and it gives others permission to report a professional with an illness to either HPSP or their licensing board. Typically, colleagues, co-workers, family members, and treatment providers report professionals, and these reports are called third-party reports and are subject to immunity.
- HPSP is often contacted by an employer when a licensee appears to be under the influence of alcohol or appears to be manic or psychotic, have a sudden cognitive decline, or have seizures at work. Family may contact HPSP when a licensee has been sent home from work or is entering a treatment facility or a psychiatric unit in a hospital. Most substance abuse programs throughout the state are familiar with HPSP and inform regulated health professionals about HPSP.
- One of HPSP's eligibility requirements is that participants may not be accused of sexual misconduct, and if they are, it is reported to the licensing board. HPSP only monitors illnesses, not misconduct behavior.
- HPSP provides the legal Tennessee Warning to participants and describes what it will do with information that it receives about the participant. Each participant also receives a brief psychiatric and substance abuse assessment and a medical history which is used to determine HPSP's next step. Participants are often referred to chronic pain assessors or treatment programs or to a neurologist or psychologist for neuropsychological testing. If a participant is already in treatment, records will be requested from the provider with valid release of treatment forms.
- HPSP then determines if a person has an illness that warrants monitoring, and if they do, HPSP develops a Participation Agreement (PA) and a Monitoring Plan (MP). The PA is a legal contract between HPSP and the participant which ensures the participant's compliance with the PA, or they will be reported to their licensing board.
- The MP is consistent for all participants as everyone in the program must have a work site monitor, who is usually their supervisor and will provide reports to HPSP about their professional performance.
- The participant needs a treatment provider who is working with them on their illness, monitors them, and will submit reports to HPSP. If there is a substance abuse disorder, HPSP will request mutual support group attendance and random toxicology screens. Some participants may have to refrain from practice for a period of time, and this may occur at the beginning of monitoring or if there is an exacerbation of symptoms during the course of monitoring. For example, if a participant is psychiatrically unstable or actively using chemicals, HPSP will ask them to refrain from practice until they are able to participate in treatment, and they may return to work when their providers deem them safe to return to practice.
- In regard to nurses, practice restrictions may be in place due to their access to controlled substances as there is a lot of diversion of controlled substances from nurses and pharmacists. During the first year of monitoring, nurses and pharmacists will generally not

have access to or have any responsibility for controlled substances when they return to work. This issue is not very prevalent with social workers.

- If monitoring is successful, the average length of time a professional is in the program is three years. For example, if someone has diabetes and is reported to the program because they continue to pass out at work but they have been compliant with the program for one year, their program may be completed in a year. Participants who are monitored longer tend to be in a more highly safety sensitive position and have illnesses that could directly impact patient care. For example, anesthesiologists who are addicted to the medications they administer to patients will be monitored for five years. Licensees are monitored according to their practice, the amount of supervision they receive, the amount of patient interaction, their illness factors, their insight and treatment compliance, treatment history, and monitoring compliance to determine the conditions and length of HPSP monitoring.
- Initially, Minnesota's program was very progressive compared to other similar national programs that regulated health professionals, as Minnesota's program began as a multi-disciplinary program offering services to all regulated health professionals with psychiatric and medical disorders. The national programs began by only treating professionals with substance disorders, which were considered a moral issue and not necessarily an illness. Eventually, all programs began treating all three disorders.
- HPSP's caseload includes substance abuse, psychiatric disorders, pain management, and medical disorders, or a combination thereof. Some national programs have begun monitoring disruptive physicians, individuals with boundary issues, or other behavioral issues that are not necessarily illness related. In terms of being a multidisciplinary program, individuals have one place to contact for assistance, and this is also valuable for employee programs of large health care systems that care for a variety of regulated health care professionals. They can refer all professionals to the program that need help.
- HPSP works with all of the 16 HLBs and in 2006 the statute was changed to include Occupational Therapists (OT), OT Assistants, speech language pathologists, and hearing aid dispensers at the request of the MDH.
- Participation in HPSP has increased over the last 10 years, which is positive for public protection but a strain on the budget. Therefore, a proposal will be submitted to the Legislature asking for an increase to the budget in order to restore staff positions. Currently, there are five case managers whose caseloads are approximately 115 to 120 clients each, and several of the case managers are licensed social workers and several are licensed alcohol and drug counselors.
- From the beginning of the program through October 20, 2010, 44% of licensed social workers have self-reported to HPSP, and 14% have been referred by third parties including supervisors, treatment providers, colleagues, friends, and family members. This 58% are referred to the program without Board knowledge. 13% of the participants are Board disciplinary referrals who have been discharged from the program for noncompliance, and the Board is informed of this action. Under these conditions the Board will refer the licensee back to HPSP under a disciplinary order. The remaining 29% are participants who have voluntarily entered the program under the Board's recommendation. In terms of monitoring, 47% of the referrals to HPSP are LSWs, 33% are LICSWs, 16% are LGSWs, and 4% are LISWs.

Zacher-Pate commented that these percentages reflect the pool of licensees in each licensing category. For example, approximately 55% are LSWs, 30% are LICSWs, 17% are LGSWs, and 3-4% are LISWs.

- Considering social work discharges from the program for participants who were monitored through 10/20/10, Feider reported that 51% successfully completed monitoring, 19% voluntarily withdrew from monitoring prior to completion, 15% were not compliant with monitoring conditions, and 15% were ineligible for monitoring (license suspended or revoked, or illness was disabling).

- Considering social work discharges from the program who were not monitored, Feider reported that 16% did not contact the program in follow-up to the referral, 23% were ineligible and non-monitored (did not meet program eligibility requirements at intake), 26% did not have an illness that warranted monitoring, and 35% did not cooperate with the intake process.

There was a question about referring social work students to HPSP, and Feider said that HPSP is only available to licensees. Also, HPSP is funded through the HLBs, and each Board pays \$1000 annually and a prorated fee for expenses. Therefore, licensees do not pay for HPSP services directly, but they do pay for their toxicology screens and treatment.

There was a question about applicant eligibility for HPSP, and Feider said the statute provides for applicants being eligible for the program. Zacher-Pate said that the EDs have discussed the possibility of anyone in applicant status doing a self-report and having the confidence that their information would not be reported back to the Board and being in the disciplinary arena. Therefore, if an applicant can self-report, the Board will not have any of this information and it will not bear on the decision to grant the applicant a license. The EDs decided to put a hold on this issue during the 2010 session, but Zacher-Pate said the topic may come up at a later date.

There was a question about whether other states have programs similar to HPSP. Feider said most states have programs serving nurses, physicians, physician assistants, dentists, and veterinarians, but nationally, there are only a handful of states that work with all regulated health professionals. The state of Washington has a physician program and a program that monitors all other regulated health professionals. Also, there was the comment that a HPSP program was a debated topic. Feider responded that in some states, physicians and nurses have received a lot of negative press for practicing under the influence and the resulting potential safety violations to patients. Feider also said that some citizen advocacy groups are recommending that patients know the illnesses of their providers including treatment of depression, substance disorders, migraines, diabetes, HIV status, and other illnesses, which may cause providers to hide their illnesses because of the shame associated with them.

- In relation to the social workers in the HPSP program, Feider said 78% of them have psychiatric disorders and 50% of them are without comorbid substance use disorders. 65% have anxiety and/or depression, 27% are bipolar, and 8% have attention deficit disorder, which is the most challenging disorder to treat because it clearly impacts one's ability to practice and may include difficulty with record keeping and organization.
- Substance use disorders vary with different professions. For example, pharmacists have a high risk for opiate dependence, whereas 81% of social workers, who may suffer from depression, choose alcohol as the primary substance of choice.
- Feider said that the medical disorders category is 5%, which she believes is under-represented and an issue that HPSP is working to resolve.

There was a question about the procedure for asking a professional to stop practicing, and Feider responded that the professional asks their employer for a medical leave of absence and the leave is typically granted.

There was a question about whether social workers who participate in HPSP are tracked demographically, looking at factors such as living in Greater Minnesota or the metro area, age, years of social work service, alcohol use, depression, race, or ethnicity. Feider responded that age and gender could be queried by zip code or phone number, but length of service, race, and ethnicity would not be available through their database. Zacher-Pate commented that due to the confidential nature of HPSP's work and its participants, the Board cannot cross reference its data with HPSP's data.

There was a question about whether work environment or field of practice could be queried for participants, and Feider responded that the question is asked but the field it is not available to query in HPSP's database. Also, there was a question about whether HPSP makes a presentation at the Minnesota Social Service Association (MSSA) conference, and Feider said she does not believe it has. HPSP has presented at several school association conferences, the Pharmacy Association, and the Medical Association when they have been invited. However, HPSP has not marketed this service.

There was a question about HPSP's emerging issues, and Feider responded she believes HPSP's biggest emerging issue is whether the current model of confidentiality in the program is going to be supported. Feider strongly believes if confidentiality was not in place, there would be less participation in the program. Also, it is important for the HLBs to know that HPSP is very transparent in its monitoring guidelines and will report professionals to their boards for being noncompliant with monitoring or for their inability to practice. The HLBs should also have the confidence that the public is being protected.

- Feider said some national associations, such as the National Counsel of State Boards of Nursing, believe that boards should be aware of all professionals in monitoring programs, and she said this practice could be detrimental to programs similar to HPSP.

Middlebrooks thanked Feider for her presentation today, and Feider said she appreciated the opportunity to talk with the Board today.

9. COMMITTEE & LIAISON REPORTS [Continued]

B. ASWB: Middlebrooks, Stratig [Portion closed to the Public]

Middlebrooks said that he and Stratig attended the Annual ASWB Fall Meeting in New Orleans November 11-13, 2010. Middlebrooks attended as the Board delegate and Stratig attended as the Board Alternate Delegate. Stratig reported the following:

- There was a proposal to modify the Model Social Work Practice Act in Article 3, Licensing Regulations, and Stratig read and commented on two of the changes.
 - 1) Under independent practice supervision, the following has been added:
"Supervision may only be provided by supervisors preapproved by a regulatory body. The regulatory body shall maintain a list of approved supervisors in good standing."
 - 2) Under the qualifications to become an approved clinical supervisor, requirements include a Master's Degree from an approved social work program, a minimum of 4500 hours of clinical practice earned over a period of three years following clinical licensure, three years of experience following licensure in the required category, completion of graduate coursework in supervision in an Approved Social Work Program or in an Approved Program of Continuing Education, and three hours of continuing education in supervision per year. Except for the increase of clinical practice hours from 1000 to 4500 hours, the Board's requirements are in line with ASWB's requirements.

Zacher-Pate commented that the Model Law is available for jurisdictions to use as a guideline or to implement the specifics in their practice act. ASWB's Regulations and Standards Committee continues to update and enhance the Model Law as necessary. The recent focus has been on supervision requirements, including licensees submitting supervision evaluations to the licensing board every six months, specific information that should be included in supervision plans, and any Board approved supervisor must have three years of practice post-licensing. Zacher-Pate said she would make this information available to the Board.

Middlebrooks said there would not be a closed session during this report and stated the following:

- The ASWB Executive Session in November was a closed session and notes could not be taken. Therefore, ASWB has been invited to present the information provided in the Executive Session at the next Board meeting on January 21. If ASWB is not available at that time, the Board will ask them to present in closed session at the March Board meeting.
- In addition to the information discussed during the Executive Session, Middlebrooks said there were other topics he would like to discuss with ASWB including their new Strategic Plan, the financials, and the practice analysis. Donna DeAngelis, ASWB's Executive Director, or another knowledgeable representative may present to the Board.

There was a question on whether ASWB could speak about their analysis of Minnesota test-takers. Zacher-Pate said ASWB would have very limited data as they do not require data on race and ethnicity or primary versus secondary language at the time of exam registration, but they could speak about our test-takers.

- Middlebrooks distributed the "Analysis of the Practice of Social Work, 2010", the "Advanced Generalist Exam Pilot Program", and the "ASWB Strategy Map (as of 11/10)", which he would like ASWB to talk about with the Board.
- The first day of the Annual Meeting is the Administrator's Forum and Zacher-Pate will report on it later. ASWB members include 49 states, all 10 Canadian Provinces, Washington D.C., and the Virgin Islands. California is the only state that is not a member of ASWB.
- ASWB's strategic planning process began last year with surveys sent to its membership asking them to identify ASWB's strengths, weaknesses, and areas for possible change. ASWB received 150 responses to the survey which served as the baseline for the plan. They formed a planning group made up of 24 committee chairs and the ASWB Board of Directors who reviewed the survey results and engaged in an analysis of the strengths, weaknesses, opportunities, and threats. The plan was finalized and approved by the Board of Directors last week.
- ASWB is creating a guide book for social work discipline which may be available by the end of the year.
- The California Board of Behavioral Health is the licensing authority for clinical social workers, marriage and family therapists, educational psychologists, and associate clinical social workers. California developed and maintains its own clinical examination and they oppose switching to ASWB's examination. Recently, California's Legislature approved the use of the ASWB clinical examination due to effective lobbying by a number of local organizations, including the local NASW. However, because of California statute, the California Board must approve the use of the ASWB examination and they have not done so at this time.
- A primary function of the meeting was to elect officers. Patricia Heard from North Carolina is the new President-Elect, M. Jenise Comer from Missouri is the new Secretary, Alison McDonald of Alberta was elected to the Board of Directors seat designated for board staff, and Dorinda Noble of Texas was elected to the at-large seat. Also elected were members of the 2011 ASWB Nominating Committee Wade Tyler from Louisiana, Teresa Young from Alabama, and Micki Lilly from North Carolina.
- In regard to financials, at the end of 2009 ASWB had a net gain of \$138,000 due to investment gains, not general revenue, which was about \$8,000 less than general expenses and their investments. From January through September 2010, ASWB had a net gain of \$947,000 due to expense reductions and increased exam fees. There was a gain in expenses of about \$57,000 which gives them a net gain of over \$1 million.
- The conscience clause was brought up in several presentations. The Idaho Legislature recently approved legislation that not only allows health care professionals, including

social workers, to refuse to provide service in situations that violate their personal, religious, moral, or ethical principles, but lifted any objection or obligation for referral for services they deem morally objectionable. The referral exemption is at odds with ASWB's Model Social Work Practice Act as well as NASW's Code of Ethics.

[Stratig left the meeting at 1:30 p.m.]

Zacher-Pate also attended ASWB's Annual Fall Meeting and made the following comments:

- There is a full day, Administrator's Forum before both the Fall Delegate Assembly and the Spring Conference begin. The Administrator's Forum is an opportunity to gain information, to network, to present issues of importance, and to receive information first-hand from ASWB and other presenters. ASWB staff reports are given, an update regarding the examination is provided, and there is always a roundtable discussion where each jurisdiction in attendance informs the group of hot topics in their jurisdiction.
- The most important issues discussed at this meeting included the following: 1) the examination changes, as they directly impact the boards, and 2) an issue of particular importance to Minnesota was ASWB changing the name of its Disciplinary Action Reporting System (DARS) to the Public Protection Database (PPD). PPD would continue to accept jurisdiction submissions of disciplinary actions, but under the new Rule 21, the Healthcare Integrity and Protection Data Bank (HIPDB) requires jurisdictions to report all adverse actions, including adverse-non-disciplinary actions, to them. Minnesota sent a proposal to ASWB Board members to encourage not only the name change from DARS to PPD, but the modification of the DARS/PPD policy to include the identification and reporting of adverse-non-disciplinary actions as well as disciplinary actions. The Minnesota proposal would streamline the reporting process as it proposed that ASWB receive all disciplinary and adverse actions from its jurisdictions and submit them to HIPDB. The proposal has been referred to ASWB's Regulation and Standards Committee and Board of Directors, who approved the name change from DARS to PPD.
- Representatives from HIPDB and the National Practitioner Data Bank (NPDB) presented at the meeting to clarify the reporting obligations based on the new March 2010 Rule 21, which required for the first time that social work boards report to NPDB and HIPDB. Rule 1921 also requires peer review associations, such as professional associations, to report disciplinary and adverse actions to NPDB. Another change is that HIPDB has to be consolidated into NPDB.
- HIPDB/NPDB offered two opportunities to provide greater service to individual jurisdictions by registering credentialing organizations for a service which would enable current reports from the national data banks to be e-mailed to the boards. The fee for this service is \$3.24 per licensee, and would likely not be affordable for many boards, which highlights the importance of the ASWB PPD system.
- Zacher-Pate concluded that the Minnesota Board is listed as compliant with the national data banks, and she thanked the Board for sending her to the Fall Meeting.

C. Compliance Education Outreach Committee: Wilcoxon

Wilcoxon reported the Committee would like to discuss with the Board the role of the committee and how it will proceed with the committee's work.

D. Council of Health Boards: Kassekert

In Kassekert's absence, Zacher-Pate reported the Council of Health Board subcommittees are working on two projects including Representative Abeler's resolution process

requirements and the criminal sexual conduct report. The Council will meet on December 7 to discuss the two reports.

E. Executive Committee: Middlebrooks, Black-Hughes, Sandry

Middlebrooks reported the committee will work with Cindy Benton from ASU to develop a 360 process for Zacher-Pate's review. There will be more information available at the next Board meeting.

F. Finance Committee: Sandry [Attached-Portion Closed to the Public]

Sandry reported the following:

- The committee met last evening and reviewed the monthly budget report. Through 33% of the year, the total of all expenses are at approximately 23% and total revenue is at 33.75%, which is a continuation of the Board's trend in finances and staff continuing to do an excellent job in keeping expenses down. The committee has no concerns about current finances at this time.
- The committee reviewed the confidential non-public data documents. The first one is for the Board to have increased spending authority if the exemptions are removed. The other two include the HLBs' proposal to increase spending authority for funding of adaptors that will enable the HLBs to connect with OET, and increased spending authority to enable the collaboration of disciplinary, regulatory licensing, and information management systems.
- The committee discussed upcoming expenses that staff reported which include a new printer, possibly some new work stations, and hardware and software for Rhee's use to maintain IT information.

Zacher-Pate distributed the final and public "Social Work Board Agency Profile" which was part of the Board's Strategic Plan.

[There was no closed session during the Finance Committee report]

G. HPSP: Kassekert

In Kassekert's absence, there was no report.

H. Legislation & Rules Committee: Ladd

In Ladd's absence, there was no report.

I. Legislative Task Force: Middlebrooks, Wilcoxon

Middlebrooks reported the task force met twice since the last Board meeting and reported the following:

- A number of meetings were scheduled with stakeholder groups, and Zacher-Pate had a follow-up meeting with the Minnesota Association of Professional Employees (MAPE).
- Ladd, Zacher-Pate, and Middlebrooks presented the Board's Legislative Proposal at the St. Louis County Health and Human Services Conference in Duluth on October 5.
- On November 5 Zacher-Pate, Middlebrooks, Alan Ingram, Executive Director, NASW-Minnesota Chapter, and Pam Luinenburg, LGSW, Coordinator for the Minnesota Coalition of Licensed Social Workers (Coalition) met with Legislative Assistant, Jim Niland, from the American Federation of State, County, and Municipal Employees

(AFSCME) Council 5 and reviewed the Board's proposal. The proposal may be referred to the AFSCME Social Services Legislative Work Group.

- On October 29 Zacher-Pate presented the proposal to the MCSWE. Zacher Pate also had a conversation with Kate Lerner, Executive Director of the Minnesota Association of County Social Service Administrators (MACSSA). The task force still plans to meet with the Teamsters Union. Both Democratic and Republican Legislative sponsors for the proposal must be secured.
- A meeting with the Cultural Providers Network will occur on December 9.

Zacher-Pate reported the following:

- She and Middlebrooks met with MAPE several times, and MAPE supports the exemption proposal based on information they received from a survey of their membership on the issue. There were 75 surveys returned and approximately 50% of the members said they were licensed with the Board and, as professionals, would support a Legislative Proposal that would enhance their professionalism. Also, if the proposal passes, during the grandparenting period there would be no examination requirement. However, some survey respondents included the comment that they do not provide social work services, but provide mental health therapy and they did not think the proposal applied to them. MAPE's Legislative Affairs Director, Richard Kolodziejski, said he did not believe these members had an accurate understanding of the proposal, as the proposal does not just apply to title.
- Kolodziejski said an unintended consequence that MAPE did not want to occur is that employers would be able to manipulate titles so that their employees would not have to be licensed, as this would defeat the main goal of the proposal. MAPE may be interested in exploring strategies to mitigate this unintended outcome.
- Two meetings have occurred with MACSSA to discuss the exemption Legislative Proposal. They believe the strongest opposition will be from county directors; however, progress was made at the last meeting. Concerns were expressed about unintended consequences. Zacher-Pate had a follow-up telephone meeting with Kate Lerner, the Executive Director of MACSSA, who works for the county directors. This group shares many of the Board's goals, but has concerns regarding the proposal. MACSSA is appreciative of the grandparenting provision and that the proposal would not alter the ability of counties to hire non-social work degreed employees.

J. Licensing Study Committee: Wilcoxon

Wilcoxon reported the committee has not met.

K. Nominating Committee: Sandry

Sandry reported the committee has not met, but he stated that three seats will be vacant on the Board on January 3, 2011: Ken Middlebrooks, Angie Stratig, and David Sandry. All three have reapplied for reappointment.

Zacher-Pate reported that John Hultquist, Director of Appointments for the Governor's Office, met with the EDs. The new Governor will make HLB reappointments; however, they will not likely be a high priority and the reappointments may be made later in the spring. The vacancies have been posted to the Board website with the application information. Also, these three members may participate fully on the Board and vote until June 30, 2011, or as such time the appointments are made. If there are no reappointments made, the Board members will be reassigned by defacto.

12. PUBLIC COMMENT

Alan Ingram said he has no further comments, and Luinenburg said she is very happy about the Board's newsletter.

13. OTHER BUSINESS

Black-Hughes said there has been a request from Mankato's Minnesota River Area Agency on Aging as the employees are regional employees and are not considered federal, state, county, or city employees, but they are paid levy dollars and are government employees. The employees would like to be included in the new exemption proposal. Hoffman said if they are not listed as one of the exempt categories, then they are not exempt; but the Attorney General could be contacted about the matter.

Kovach asked if county supervisors that are not on board with the proposal have an internal complaint process for clients. There are grievance processes in the public sector system. However, there are not equal protections or equal opportunities for clients if services are below standards, and if a practitioner is not licensed. In these cases a client does not have recourse through the Board's compliance process, as the Board has no jurisdiction if the city, county or state "social worker" is not licensed.

14. ROUNDTABLE

- Beginning December 8 Black-Hughes said she will offer free continuing education for licensing supervisors in order for them to obtain the 30 hours of training in supervision effective August 1, 2011. There will be eight four-hour sessions, and she has about 6 people who are signed up for the training. She will take up to ten people in the class. Black-Hughes also encouraged people who have this knowledge base to offer free continuing education credits so the number of licensing supervisors may be increased.
- Oberle encouraged Board members to include their departure and arrival times on their expense reports.
- Zacher-Pate thanked everyone for their hard work and the very good discussion today.

15. ADJOURN

The meeting adjourned at 2:20 p.m.

Respectfully submitted,



David Sandry
Secretary-Treasurer